

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ALEX AROZ,

Plaintiff,

v.

CAMPBELL,

Defendant.

Case No. 1:23-cv-01666-BAM (PC)

ORDER REGARDING PLAINTIFF'S
REQUEST FOR VOLUNTARY DISMISSAL
(ECF No. 8)

Plaintiff Alex Aroz (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action under 42 U.S.C. § 1983. On April 25, 2024, the Court screened the complaint and granted Plaintiff leave to file a first amended complaint or a notice of voluntary dismissal. (ECF No. 7.) On May 24, 2024, Plaintiff filed a request for voluntary dismissal, without prejudice. (ECF No. 8.)

“[U]nder Rule 41(a)(1)(i), a plaintiff has an absolute right to voluntarily dismiss his action prior to service by the defendant of an answer or a motion for summary judgment.” *Commercial Space Mgmt. Co., Inc. v. Boeing Co., Inc.*, 193 F.3d 1074, 1077 (9th Cir. 1999) (quotation and citation omitted). “[A] dismissal under Rule 41(a)(1) is effective on filing, no court order is required, the parties are left as though no action had been brought, the defendant can't complain, and the district court lacks jurisdiction to do anything about it.” *Id.* at 1078. No defendant has been served in this action and no defendant has filed an answer or motion for summary

1 judgment.

2 Accordingly, this action is terminated, without prejudice, by operation of law without
3 further order from the Court. Fed. R. Civ. P. 41(a)(1)(A)(i). The Clerk of the Court is directed to
4 terminate all pending motions and close this case.

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6 IT IS SO ORDERED.
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Dated: May 24, 2024

/s/ Barbara A. McAuliffe
8 UNITED STATES MAGISTRATE JUDGE

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